

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY	)	MDL No. 1456
AVERAGE WHOLESALE PRICE	)	Master File No. 1:01-CV-12257-PBS
LITIGATION	)	Sub Docket No. 1:10-CV-11186-PBS
	)	
THIS DOCUMENT RELATES TO:	)	Judge Patti B. Saris
<i>United States ex rel. Ven-A-Care of the Florida</i>	)	
<i>Keys</i>	)	
<i>v.</i>	)	
<i>Baxter Healthcare Corporation and Baxter</i>	)	
<i>International Inc.</i>	)	

**[PROPOSED] SCHEDULING ORDER**

January 5, 2011

Saris, U.S.D.J.

WHEREAS, Relator Ven-A-Care of the Florida Keys (“Relator”) filed its original complaint on June 23, 1995, and an amended complaint on May 14, 2010 in the U.S. District Court for the Southern District of Florida;

WHEREAS, the amended Complaint was unsealed on May 28, 2010 and assigned Civil Action No. 1:10-cv-21745-ASG;

WHEREAS, the matter was transferred to the District of Massachusetts by the Judicial Panel for Multidistrict Litigation on July 15, 2010 and assigned Case No. 10-cv-11186-PBS;

WHEREAS, that case was consolidated with Case No. 01-cv-12257-PBS (MDL No. 1456) on July 16, 2010;

WHEREAS, counsel for the Relator and counsel for Defendants have begun to discuss the possibility of a resolution of this matter without the need for further litigation;

WHEREAS, on October 15, 2010 the parties filed and on October 28, 2010 this Court approved a proposed scheduling order whereby the parties were to engage in formal mediation

prior to December 31, 2010 in an attempt to resolve this matter and, if not successful, were to file by no later than January 17, 2011, a joint proposed schedule to the Court for motion to dismiss briefing.

WHEREAS, Whereas, the parties have been working diligently to resolve this matter, but need additional time to continue settlement discussions because defense counsel needed substantial time to respond to relator's demand and relator's counsel has been working with the U.S. Department of Justice to finalize other AWP settlements.

NOW THEREFORE, it is ORDERED, as follows:

1. Relator and Defendants shall continue to engage in informal mediation prior to ~~January 30, 2011~~ in an attempt to resolve this matter;
2. All deadlines shall be stayed during the pendency of this mediation period;
3. Should mediation not be successful, the parties will, by no later than ~~January 15, 2011~~, jointly propose a schedule to the court for motion to dismiss briefing.

March 1  
~~March~~ 15

So ordered.



Judge Patti B. Saris  
1/5/2011